

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION**

CURTIS RAY BALLOU,

v.

**OFFICER BARBER and OFFICER
BATES,**

Defendants.

Criminal Action No. 7:12-cv-31 (HL)

ORDER

On December 13, 2012, Plaintiff Curtis Ray Ballou filed his notice of appeal (Doc. 39), stating his intent to appeal an Order of this Court adopting the recommendation of the magistrate judge to dismiss his action for failure to exhaust administrative remedies (Doc. 35). In connection with this appeal, Plaintiff filed a Motion to Appeal in Forma Pauperis (Doc. 42) which is now before this Court for review. For the reasons stated below, the Motion is denied.

The district court has the discretion to grant in forma pauperis requests, but “an appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3). In the context of this statute, good faith means that the litigant seeks the review of issues that are not frivolous from an objective standard. United States v. Wilson, 707 F. Supp. 1582, 1583 (M.D. Ga. 1989). “Good faith” requires that points on appeal are

reasonably arguable. DeSantis v. United Technologies Corp., 15 F. Supp. 2d 1285, 1289 (M.D. Fla. 1998).

In this case, Defendant's appeal is not taken in good faith. Magistrate Judge Thomas Q. Langstaff determined, and this Court agreed, that Plaintiff did not properly exhaust his available administrative remedies, and therefore, his appeal is frivolous. The Motion is denied and Defendant is advised to consult Rule 24(a)(5) of the Federal Rules of Appellate Procedure.

SO ORDERED, this 17th day of January, 2013.

s/ Hugh Lawson
HUGH LAWSON, SENIOR JUDGE

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